

JUN 23 1975

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PROCLAMATION

BY THE

Governor of the State of Texas

ALL TO WHOM THESE PRESENTS SHALL COME:

June 21, 1975

In accordance with Section 14, Article IV of the Constitution of the State of Texas, I disapprove of H.B. 1953 and am filing same with the Secretary of State setting forth the following objections:

Recent constitutional and probate code amendments created certain problems and conflicts regarding jurisdiction of probate matters. A special committee was formed by the State Bar of Texas to study the need for additional Probate Code amendments to resolve those problems and conflicts. The committee solicited suggestions from the members of the State Bar and recommended amendment or repeal of various sections of the Probate Code and the civil statutes of Texas. The State Bar committee's recommendations for resolving the recently created problems in probate jurisdiction have been enacted into law by the 64th Legislature in S.B. 534, which amends six sections of the Probate Code, including Section 5, and repeals Section 30 of the Probate Code and Article 1907 of the civil statutes.

The provisions of H.B. 1953 that amend present law relate only to counties in which there is no statutory probate court. The enactment of H.B. 1953, which amends Section 5 of the Probate Code but does not amend or repeal the other sections that are included in S.B. 534, will result again in ambiguity and conflict in the Probate Code. The two bills contain some of the same provisions for the transfer of contested probate proceedings to the district court for trial in counties in which there is no statutory court exercising the jurisdiction of a probate court but such provisions of S.B. 534 are more comprehensive than the provisions of H.B. 1953.

The State Bar committee apparently did not consider the provisions of H.B. 1953 relating to trial de novo in the district court in probate matters to which no contest was filed to be a necessary provision, since the provision is not included in S.B. 534. The provision for trial de nove on the district court on appeal, certiorari, or bill of review could again create confusion in the

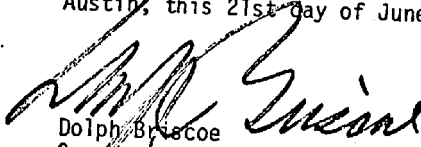
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jurisdiction and appeal of probate matters. S.B. 534 expressly repeals Section 30 of the Probate Code providing for review by certiorati.

It is not necessary to enact the provisions of H.B. 1953 that duplicate the provisions of S.B. 534, and not desirable to enact provisions that create ambiguity or conflict.

H.B. 1953 was received in the Governor's Office less than ten (10) days prior to the adjournment of the regular session of the Sixty-fourth Legislature, and in accordance with the Constitution of the State of Texas, this bill, together with this Proclamation, is filed with the Secretary of State.

IN TESTIMONY WHEREOF, I
have hereunto signed my name
officially and caused the seal of
the State to be affixed hereto at
Austin, this 21st day of June, 1975.


Dolph Briscoe
Governor of Texas